



Document No. 13

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Jurgen Loffler et al. :
Application No. 09/284,155 :
Filed: July 14, 1999 :
Attorney Docket No. WWH-188 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed January 17, 2001, to revive the above-mentioned application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on August 2, 2000 for failure to timely file an appropriate response to the final Office action mailed May 1, 2000 which set a shortened statutory period for reply of three (3) months. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on January 31, 2001 which was after the instant petition was filed.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Although petitioner checked the appropriate box on the instant petition indicating that a proposed reply was enclosed with the petition, the petition does not indicate the nature of the reply, nor does the application file contain any record of a proposed reply being filed with the petition. Accordingly, this application cannot be revived until an appropriate reply to the final Office action mailed, May 1, 2000, is filed.

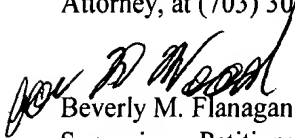
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
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Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 306-0010.


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